

PLANNING COMMISSION MINUTES OF APRIL 24, 2006

2006-0087 – Appeal of a decision of the Administrative Hearing Officer for an application for a Variance on a 6,211 square-foot site from Sunnyvale Municipal Code section 19.34.040 to allow a six-foot setback where nine feet is required. The property is located at **734 Ashbourne Dr** (near E Fremont Ave) in an R-0 (Low-Density Residential) Zoning District. (APN: 309-06-016) SL **(Continued from April 10, 2006)**

Steve Lynch, Associate Planner, presented the staff report. He said this item was continued from the April 10, 2006 meeting to have staff further research issues related to the flood zone and the sewer connection of the site. Staff requested that the applicant provide an estimate of the project cost difference depending on where the bathroom is located to determine if a change in the design would result in a more expensive sewer line connection that might be a financial hardship to the property owner.

Chair Hungerford asked staff if the applicant was able to provide the financial impact of a new connection. Mr. Lynch said the applicant provided this information to Planning staff and the Commissioners this evening and asked that the applicant discuss the information during the applicant presentation.

Chair Hungerford opened the public hearing.

Lorraine Guerrera Maciejowski, applicant, thanked the Planning Commission for the opportunity to clarify a few issues from the April 10, 2006 meeting. She summarized what had been reviewed. Ms. Maciejowski said that a staff member had complimented their design at the Administrative Hearing and that letters of approval from neighbors were provided. She said other areas discussed were the fence and landscaping, topography and grading of the site. She said that she feels the site shows “extraordinary topography” which is one of the findings for a variance. She said that the definition of extraordinary is “uncommon and unusual” and that she feels their site meets the definition. She also referenced the Americans with Disabilities Act (ADA) guidelines for design requirements for bathrooms, submitted a design that would meet the requirements and discussed some of the requirements. She said they need to remodel the bathroom to be ADA compliant to accommodate a relative living with them. She said, regarding the waste collection issue, that they consulted a California licensed building contractor and plumber and that her husband would report on the findings.

Mieczyslaw Maciejowski, applicant, reported the findings and provided a written statement from the contractor regarding the sewer connection. He described some of the findings, why they chose the proposed design for the addition, and some of the problems that would result if they had to redesign the addition

extending to the rear of the house rather than the side, taking into consideration the recently landscaped backyard. He said if a sewer connection had to be added on the Flicker Way side that the contractor estimated the project would cost an extra \$20,000 and be disruptive to the neighborhood while putting in the new line. Mr. Maciejowski said he believes the most convenient design for the addition is the one proposed on the side of house that could be tied into the existing street sewer lines. He said he feels they have provided the necessary information for the variance so that the remodel will be both economically feasible and visually pleasing for the neighborhood.

Comm. Sulser asked Mr. Maciejowski how much the sewer hook up would cost if a variance were granted. Mr. Maciejowski said he is not sure what the cost would be to hook up to the existing sewer line, but if a separate sewer line is required, it will cost about \$20,000 more including the disruption of sidewalks and streets while the new sewer line is being installed.

Comm. Babcock asked Mr. Maciejowski if they had considered extending the bedroom into the backyard and putting the bathroom on the east side of the home which would not require a variance. He said if they extended the bedroom to the rear of the house they would lose one of the dual paned windows and part of the useable backyard space. He said they could consider narrowing the addition in order to meet the setbacks, but it would not be practical and would not accommodate the size needed for the bathroom for a person with limited mobility.

Chair Hungerford closed the public hearing.

Trudi Ryan, Planning Officer, commented that the City Attorney advises that the ADA laws look for reasonable accommodation for facilities for those with disabilities which could be used as a reason, if the Planning Commission chooses, to approve the variance. Ms. Ryan said if the Commission determines that an additional sewer connection is a hardship that this hardship could also be an appropriate reason to approve the variance along with the ADA component.

Chair Hungerford commented to Ms. Ryan that he thought the Planning Commission was to consider the property configuration only when considering a variance and not at the applicant. Ms. Ryan said the code regulates that to grant a variance that something has to be unique about the "property or the use." She said, in this case, the use could be the ADA compliant bathroom.

Comm. Babcock moved for Alternative 1, to deny the appeal and uphold the decision to deny the Variance. Comm. Simons seconded the motion.

Comm. Babcock said she was unable to make the findings and that she feels there are alternative designs for the addition that can be considered using part of the backyard rather than the side yard.

Comm. Simons said he thinks that adding a secondary sewer line seems unnecessary and that there are alternatives that would be less expensive than \$20,000.

Final Action:

Comm. Babcock made a motion on 2006-0087 to deny the appeal and uphold the decision of the Administrative Hearing Officer to deny the Variance. Comm. Simons seconded.

Motion carried unanimously, 5-0, Vice Chair Fussell absent.

This item is appealable to City Council no later than May 9, 2006